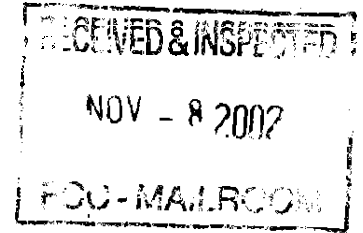


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of )  
 )  
Request for Waiver by )  
 )  
Marin County Office of Education )  
San Rafael, California )  
 )  
Federal-State Joint Board on )  
Universal Service )

File No. SLD-303207

CC Docket No. 96-45✓

Changes to the Board of Directors of the )  
National Exchange Carrier Association, Inc. )

CC Docket No. 97-21

**ORDER**

**Adopted: November 6, 2002**

**Released: November 7, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Waiver Request filed by Marin County Office of Education (Marin County), San Rafael, California, seeking a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>1</sup> Specifically, Marin County requests a waiver of the filing deadline for Funding Year 2002.<sup>2</sup> For the reasons set forth below, we deny Marin County's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its

<sup>1</sup> Letter from Mary Jane Burke, Mari County Office of Education, to Federal Communications Commission, tiled June 3, 2002 (Waiver Request).

<sup>2</sup> See Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. § 54.719(c). In prior years, Funding Year 2002 was referred to as Funding Year 5. Funding priorities are now described by the year in which the funding period starts. Thus the Funding period that began on July 1, 1999 and ended on June 30, 2000, previously known as Funding Year 2, is now called Funding Year 1999. The funding period that begins on July 1, 2002 and ends on June 30, 2003 is now known as Funding Year 2002, and so on.

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503

technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.<sup>5</sup>

3. In the FCC Form 471 instructions, SLD has clearly set forth its standards for processing a FCC Form 471 application.<sup>6</sup> Specifically, the Form 471 Instructions for Item 34, the signature certification block, requires, "the authorized person to sign the Form 471 with an original, ink signature."<sup>7</sup> The FCC Form 471 Instructions further state that if a school or library does not provide the information requested on this form, "the processing of your application may be delayed or your application may be returned to you without action."

4. Marin County's original Funding Year 2002 application was returned without processing because the application failed to meet SLD's minimum processing standards? SLD informed Marin County that its application had failed minimum processing standards because its FCC Form 471 Block 6 signature certification was blank." Following this rejection, Marin County resubmitted the signature block of its FCC Form 471 with ~~an~~ original handwritten signature." Subsequently, SLD notified Marin County that its corrected Form 471 would be considered as an out of window application for discounted services.<sup>12</sup> Marin County then appealed this decision to SLD, and this appeal was denied as requesting a waiver of the filing window, which is outside of SLD's authority to grant.<sup>13</sup> Marin County then filed the pending Waiver Request, seeking a waiver.

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<sup>4</sup> 47 C.F.R. § 54.504(b)(1), (b)(3)

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471 Instructions), OMB 3060-0806 (October 2000).

<sup>7</sup> *Id.* at 25 (emphasis altered)

<sup>8</sup> *Id.* at 2

<sup>9</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dane Lancaster, Marin County Office of Education, dated January 24, 2002 (stating that the applicant did **not** meet minimum processing standards and that their FCC Form 471 could not be processed).

<sup>10</sup> *Id.*

<sup>11</sup> Request for Review.

<sup>12</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Dane Lancaster, Marin County Office of Education, dated March 29, 2002 (stating that Marin County's FCC Form 471 **was** received after the January 17, 2002 filing window for Funding Year 2002 applications),

<sup>13</sup> Letter from Dane Lancaster, Marin County Office of Education, to Schools and Libraries Division, Universal Service Administrative Company, filed January 31, 2002; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dane Lancaster, Marin County Office of Education, dated May 21, 2002.

5. In its Waiver Request, Marin County does not dispute that it failed to sign its original certification page, but asserts that the error was accidental, and denial of funding will cause its Internet access program to stop.<sup>14</sup>

6. Although the Commission may waive any provision of its rules, a showing of good cause must support a waiver request.<sup>15</sup> A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>16</sup>

7. We find that the accidental nature of the omission is not a special circumstance warranting a waiver. In light of the thousands of applications that SLD reviews and processes each funding year, administrative necessity requires that each applicant be responsible for providing complete and accurate information, including the requisite signature, in its FCC Form 471.<sup>17</sup> We also have held that the assertion of financial need does not meet the requirement of special circumstances that warrant a waiver of the Commission's rules."

8. Marin County notes that SLD's rejection letter was issued after the close of the filing window, making it impossible for Marin County to submit a correct version before the window closed.<sup>19</sup> Marin County submitted its corrected version immediately after receiving the rejection letter.<sup>20</sup> However, we have repeatedly found that the inability to meet the filing window resulting from the need to file a corrected application after a minimum processing standards rejection is not a special circumstance warranting waiver of the window." We conclude that the circumstances presented by Marin County are insufficient to warrant a deviation from the general rule.

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<sup>14</sup> Waiver Request at 1-2.

"47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>16</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio*, 897 F.2d at 1159 (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis).

<sup>17</sup> *Request for Review by Shawnee Library System, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-147437, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 11824, para. 9 (Wireline Comp. Bur. 2002).

<sup>18</sup> See *Request for Review by Northern Waters Library Service, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-183 124, CC Docket Nos. 96-45 and 97-21, Order, DA 02-227, para. 7 (Comp. Car. Bur. rel. Jan. 30, 2002).

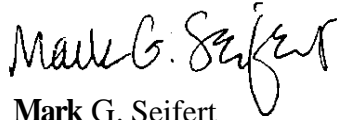
<sup>19</sup> Waiver Request at 2,

<sup>20</sup> *Id.*

<sup>21</sup> See, e.g., *Review by Southern Adirondack Library System, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-267054, CC Dockets No. 96-45 and 97-21, Order, 17 FCC Rcd 6006, paras. 9-13 (Wireline Comp. Bur. 2002).

9. ACCORDINGLY, IT **IS** ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Marin County Office of Education, San Rafael, California, on June 3, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Mark G. Seifert". The signature is written in a cursive, flowing style.

**Mark G. Seifert**

Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau